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LEGISLATIVE ACTION

Senate

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House

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The Conference Committee on CS for CS for SB 2694 recommended the following:

**Senate Conference Committee Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 216.311, Florida Statutes, is amended to read:

216.311 Unauthorized contracts ~~in excess of appropriations;~~ penalty.—

(1) An ~~No~~ agency or branch of state government may not enter into any ~~shall contract to spend, or enter into any~~ agreement:



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13        (a) To spend, any moneys in excess of the amount  
14 appropriated to such agency or branch unless specifically  
15 authorized by law, and any contract or agreement in violation of  
16 this chapter shall be null and void.

17        (b) That requires the state to pay liquidated damages or  
18 early termination fees for a breach or early termination of a  
19 contract or agreement by such agency or branch due to an act of  
20 the Legislature which provides less than full funding for the  
21 contract during the fiscal year.

22        (c) That requires the state to pay interest, other than  
23 interest paid pursuant to s. 215.422, to another party because  
24 the agency or branch has insufficient budget authority to pay  
25 the underlying obligation of the contract or agreement in the  
26 current year.

27        (d) That binds the state to make future-year payments to  
28 offset payments not made in a prior year due to insufficient  
29 budget authority, unless the Legislature expressly authorizes  
30 the agency or branch to enter into such contract or agreement.

31        (e) To grant to any party the right or privilege to collect  
32 and retain fees or other revenues from persons who are not a  
33 party to the contract which would otherwise be payable to the  
34 state and deposited into the State Treasury, unless the  
35 Legislature expressly authorizes the agency or branch to enter  
36 into such contract or agreement.

37        (2) Notwithstanding any law authorizing an agency to enter  
38 into a lease, an agency may not enter into a lease or lease-  
39 purchase agreement for tangible personal property which requires  
40 the state to pay more than \$500,000 over the term of the lease  
41 or agreement if the term of the lease or agreement exceeds 1



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42 fiscal year unless such lease or agreement is expressly  
43 authorized by the Legislature.

44 (3) Any contract or agreement in violation of this section  
45 is null and void.

46 (4)(2) Any public officer or employee person who willfully  
47 enters into a contract or other agreement in violation of this  
48 section commits contracts to spend, or enters into an agreement  
49 to spend, any money in excess of the amount appropriated to the  
50 agency or branch for whom the contract or agreement is executed  
51 is guilty of a misdemeanor of the first degree, punishable as  
52 provided in s. 775.082 or s. 775.083.

53 (5) Notwithstanding subsection (1), the following agencies  
54 may enter into the following contracts or agreements:

55 (a) In order to spend funds appropriated for the approved  
56 5-year work program, the Department of Transportation may enter  
57 into contracts and other agreements that require the state to  
58 pay liquidated damages as a result of a breach of those  
59 contracts or agreements.

60 (b) In order to administer the state group insurance  
61 program as provided in s. 110.123, the Department of Management  
62 Services may enter into contracts and other agreements that  
63 permit health care providers, health maintenance organizations,  
64 preferred provider organizations, and insurers to collect  
65 premiums and copayments from participants in the group insurance  
66 program.

67 (c) In order to administer the state Medicaid plan and the  
68 Florida Healthy Kids program, the Agency for Health Care  
69 Administration may enter into contracts and other agreements  
70 that permit health care providers to collect premiums and



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71 copayments from participants in the Medicaid plan and the  
72 Healthy Kids program.

73 (6) Notwithstanding subsection (2), in order to administer  
74 the real estate and other investment portfolios as provided in  
75 s. 215.47, the State Board of Administration may enter into  
76 contracts and such other agreements that are necessary to carry  
77 out the investment duties of the board.

78 (7) For purposes of this section and ss. 216.312 and  
79 216.313, the terms "contract" and "agreement" include the  
80 initial contract or agreement, any amendment to the contract or  
81 agreement, and any extension or renewal of the contract or  
82 agreement.

83 Section 2. Section 216.312, Florida Statutes, is created to  
84 read:

85 216.312 Reporting contract expenditures.—

86 (1) At least 30 days before an executive or judicial branch  
87 public officer or employee enters into any contract or  
88 agreement, or any series of contracts or agreements between the  
89 same parties, on behalf of the state which requires payments by  
90 the state in excess of \$10 million in any fiscal or calendar  
91 year, the officer or employee must notify the Governor, the  
92 President of the Senate, and the Speaker of the House of  
93 Representatives of the intent to enter into such contract or  
94 agreement or series of contracts or agreements.

95 (2) At least 30 days before an executive or judicial branch  
96 public officer or employee enters into any contract or agreement  
97 on behalf of the state which requires minimal or no payments by  
98 the state or authorizes the other party to make expenditures in  
99 anticipation of revenues, the officer or employee must notify



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the Governor, the President of the Senate, and the Speaker of the House of Representatives of the intent to enter into such contract or agreement.

(3) At least 30 days before an executive or judicial branch public officer or employee enters into any contract or agreement on behalf of the state which requires initial expenditures by the other party and for which the other party will not receive payment from the state within 180 days after the expenditure, the officer or employee must notify the Governor, the President of the Senate, and the Speaker of the House of Representatives of the intent to enter into such contract or agreement.

(4) The execution of any contract or agreement described in this section is an action or proposed action that is subject to s. 216.177(2)(b).

Section 3. Section 287.0582, Florida Statutes, is transferred and renumbered as section 216.313, Florida Statutes, and amended to read:

216.313 ~~287.0582~~ Contract appropriations ~~Contracts which require annual appropriation;~~ contingency statement.-

(1) An executive or judicial branch public officer or employee may not enter into any contract or agreement on behalf of the state or judicial branch which binds the state or its executive agencies or the judicial branch for the purchase of services or tangible personal property unless the contract identifies the specific appropriation of state funds from which the state will make payment under the contract in the first year of the contract, or unless the Legislature expressly authorizes the agency or the judicial branch to enter into such contract absent a specific appropriation of funds.



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(2) ~~An~~ No executive or judicial branch public officer or employee may not ~~shall~~ enter into any contract or agreement on behalf of the state, which ~~contract~~ binds the state ~~or its executive agencies~~ for the purchase of services or tangible personal property ~~for a period in excess of 1 fiscal year,~~ unless the following statements are ~~statement is~~ included in the contract:

(a) "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."

(b) "This contract may be terminated by the state upon 30 days' written notice if funding for this contract is specifically eliminated pursuant to:

1. A deficit reduction plan implemented by the Governor or the Chief Justice or by an act of the Legislature after certification pursuant to section 216.221, Florida Statutes, that a deficit will occur in the General Revenue Fund; or

2. A deficit reduction plan implemented by the Governor or Chief Justice pursuant to section 216.221(10), Florida Statutes, or by an act of the Legislature, after a determination by the Chief Financial Officer that a deficit will occur with respect to the appropriations from a specific trust fund in the current fiscal year."

(3) A contract or other agreement that exceeds:

(a) The CATEGORY TWO threshold amount provided in s. 287.017 must be signed by the agency head, executive director, or chief judge, as appropriate, or a designated senior management employee.

(b) A term of 12 months may not be executed by any



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executive or judicial branch agency unless the agency head,  
executive director, or chief judge, as appropriate, determines  
that the contract is in compliance with the requirements of this  
chapter and certifies such compliance in writing within the  
contract or agreement.

(c) The CATEGORY FIVE threshold amount provided in s.  
287.017 must require the written acceptance or rejection of  
contract deliverables.

(4) Any contract or other agreement in violation of this  
section is null and void.

(5) Any public officer or employee who willfully enters  
into a contract or other agreement in violation of this section  
commits a misdemeanor of the first degree, punishable as  
provided in s. 775.082 or s. 775.083.

Section 4. Subsection (4) of section 287.063, Florida  
Statutes, is amended to read:

287.063 Deferred-payment commodity contracts; preaudit  
review.—

(4) Beginning July 1, 2009, an agency may not enter into a  
lease or deferred payment purchase arrangement for the  
acquisition of equipment that has a total cost greater than  
\$500,000 unless the Legislature has expressly authorized such  
lease or deferred payment purchase arrangement in the General  
Appropriations Act. ~~For purposes of this section, deferred-~~  
~~payment commodity contracts for replacing the state accounting~~  
~~and cash management systems may include equipment, accounting~~  
~~software, and implementation and project management services.~~

Section 5. Subsection (9) of section 287.064, Florida  
Statutes, is amended to read:



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287.064 Consolidated financing of deferred-payment purchases.—

(9) Beginning July 1, 2009, an agency may not enter into a master equipment financing agreement that has a total cost exceeding \$500,000 unless the Legislature has expressly authorized such agreement in the General Appropriations Act. ~~For purposes of this section, deferred payment commodity contracts for replacing the state accounting and cash management systems may include equipment, accounting software, and implementation and project management services.~~

Section 6. This act shall take effect July 1, 2009, and applies to initial contracts and agreements, amendments to a contract or agreement, and extensions or renewals of a contract or agreement which are executed on or after that date.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to state financial matters; amending  
s. 216.311, F.S.; prohibiting an agency or branch of  
state government from contracting to pay, without  
legislative authority, liquidated damages or early  
termination fees resulting from the breach or early  
termination of a contract or agreement, from  
contracting to pay interest because of insufficient  
budget authority to pay an obligation in the current  
year, from obligating the state to make future





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payments to cover unpaid payments, or from granting to a party the right to collect fees or other revenues from nonparties; providing that such contracts are null and void; prohibiting an agency from entering into certain lease or lease-purchase agreements unless expressly authorized by the Legislature; providing exceptions for certain agency contracts or agreements; authorizing the State Board of Administration to enter into contracts and other agreements that are necessary to carry out the investment duties of the board; defining the terms "contract" and "agreement"; creating s. 216.312, F.S.; requiring the executive and judicial branch to notify the Governor and the Legislature before entering into contracts or agreements in excess of a certain amount, which authorize expenditures in anticipation of revenues, or for which payment is delayed for a certain time after expenditure; transferring, renumbering, and amending s. 287.0582, F.S.; requiring a state contract to identify the appropriation that funds the contract; providing an exception; expanding the statement that must be included in state contracts to include grounds for terminating the contract based on budget deficits; requiring the judicial branch to include the statement in its contracts; providing an exception; requiring the agency head, executive director, or chief judge, as appropriate, or a designated senior management employee to sign contracts that exceed a certain amount; requiring the agency head, executive director,



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or chief judge to review certain contracts and certify compliance with ch. 216, F.S.; requiring contracts exceeding a specified amount to require written acceptance or rejection of contract deliverables; providing that contracts in violation of these provisions are null and void; providing penalties; amending s. 287.063, F.S.; prohibiting certain lease or deferred payment purchases by state agencies unless expressly authorized by the Legislature in the appropriations act; amending s. 287.064, F.S.; prohibiting certain master equipment financing agreements unless expressly authorized by the Legislature in the appropriations act; providing for application; providing an effective date.